

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
UNITED STATES OF AMERICA,)	
)	
v.)	
)	No. 20-CR-10098-WGY
BRIAN GILBERT, STEPHANIE POPP,)	
STEPHANIE STOCKWELL and)	
VERONICA ZEA)	
)	
Defendants)	
_____)	

SENTENCING MEMORANDUM OF DEFENDANT VERONICA ZEA

INTRODUCTION

On December 29, 1170, King Henry II of England is reported to have said with respect to Thomas Becket, the Archbishop of Canterbury: “Will no one rid me of this turbulent priest?” Following which, four of Henry’s knights, interpreting this question as a command, assassinated Becket. In a somewhat similar fashion, in the summer of 2019, Devin Wenig, the Chief Executive Officer of eBay, Inc., a multi-million dollar global online marketplace, expressed concern about postings on an online newsletter, eCommerceBytes, operated by Victim 1 and Victim 2, a couple residing in Natick, Massachusetts. Those postings were perceived by Wenig and by eBay’s Chief Communications Officer, Steve Wymer, and other senior executives at eBay, including Wendy Jones, the Chief Operating Officer, and Marie Huber, eBay’s General Counsel, as a threat to eBay, its public image and to eBay personnel. Wenig and Wymer, in essence, then conveyed the following message to James Baugh, eBay’s Senior Director of Safety & Security: “will no one rid us of this turbulent newsletter?”

In fact, the direction to Baugh from senior management at eBay was far more specific than King Henry's question. As set out in the Government's Offense Conduct Statement, on August 1, 2019, Wenig texted Wymer regarding the newsletter: "if we are ever going to take her down...now is the time." Wymer then shared that text with Baugh, who asked: "let me ask you this, do we need her entire site shut down? I'm not fucking around with her anymore." To which Wymer replied: "Amen. I want her DONE." In response, Baugh asked: "DW [Wenig] said to burn her to the ground correct?" And Wymer replied: "She is a biased troll who needs to get BURNED DOWN." Baugh then asked: "If I can neutralize her website in two weeks or less, does that work for you." Wymer's reply: "I want to see ashes. As long as it takes. Whatever it takes." Wymer went on to say in another text: "I genuinely believe these people are acting out of malice and ANYTHING we can do to solve it should be explored. Whatever. It. Takes." Baugh, who has now pled guilty to conspiracy to stalk through interstate commerce, stalking through interstate travel, stalking through facilities of interstate commerce, witness tampering and destruction of records, has stated in filings with this Court that Marie Huber, the General Counsel of eBay, had advised eBay executives, including Baugh, that ordinary legal tools were unlikely to be effective in addressing the issues posed by the newsletter and a related Twitter account (@Fidomaster1) believed to be associated with the editors of eCommerceBytes, and that the executives then turned to Baugh to solve the problem by "less conventional means."

Following the directive from the senior eBay executives, Baugh then put together a plan to, effectively, burn down the eCommerceBytes newsletter. As the Government has described it, that plan involved an effort to harass the Natick couple through repeated and hostile Twitter messages, deliveries of unwanted and, in some instances, disturbing items to the couple's home, and physical surveillance. To carry out his misbegotten plan, Baugh directed a number of eBay

employees, including David Harville, eBay's Director of Global Resiliency ("GSR"), a unit focused on ensuring that eBay could continue to operate after business disruptions, Stephanie Popp, eBay's Senior Manager of Global Intelligence who served as Baugh's chief of staff and who managed eBay's Global Intelligence Center ("GIC"), an intelligence and analytics group within the GSR, Stephanie Stockwell, a manager in the GIC, Brian Gilbert, a Senior Manager of Special Operations for eBay's Global Security Team (Gilbert was a retired captain from the City of Santa Clara Police Department), Phillip Cooke, a Senior Manager of Security Operations for eBay's Global Security Team (like Gilbert, Cooke was also a retired captain from the City of Santa Clara Police Department). In addition to the management personnel listed above, Baugh also directed the participation in his plan by a number of young, female intelligence analysts in the GIC. Those analysts included the Defendant, Veronica Zea, and others, each of whom carried out some part of Baugh's ugly plan.

For Veronica Zea, following her boss's instructions, has resulted in a two federal felony convictions for which she now faces sentencing by this Court. This Memorandum is intended to persuade the Court that Veronica Zea deserves to be treated with the utmost leniency and that a sentence of one year of probation, some period of community service, a \$200 penalty assessment is "sufficient, but not greater than necessary, to comply with the purpose of sentencing." 18 U.S.C. Section 3553(a).

BACKGROUND FACTS

A. Working at eBay

At the time of the activities that are described in the Government's Offense Conduct Statement as well as in the Presentence Investigation Report, Veronica Zea was 25 years old and had been employed at eBay for two years as a contract worker in a position then described as an

“Intelligence Analyst.” This was her first employment following graduation from American University in 2016 where she obtained a Bachelor of Arts in Justice, Law and Criminology. Initially, the ability to work at eBay, even on a contract basis through another employer, seemed like the dream job as Veronica had hoped for a career in law enforcement in some capacity. What seemed like a dream job soon became a nightmare as Veronica was exposed to excessively long hours with no overtime pay (8 a.m. to 10 p.m.) and subject to a manipulative and abusive boss in Jim Baugh. Veronica Zea’s statement to this Court is attached hereto marked Exhibit A; in that statement Veronica lays out in exquisite detail what employment under Jim Baugh was like and how she has struggled to understand how she allowed herself to be involved in his machinations with respect to the victims of his plan.

As another young, female analyst, Anneli Olausson, described work in the Global Intelligence Center under Baugh: it was a toxic and manipulative work environment where the leadership (Jim Baugh, Dave Harville and Stephanie Popp) continually tested the analysts’ loyalties and erased boundaries through psychological manipulation. As Ms. Olausson puts it, Baugh broke down the analysts psychologically using, among other things, lies and veiled threats of blackmail. Significantly, as Ms. Olausson points out, because the analysts were contractors through Concentric Advisors, they did not have access to eBay’s human resources and Baugh and the other managers effectively blocked communication with Concentric. Ms. Olausson relates how a former analyst asked to speak with human resources regarding work conditions and was immediately let go. When Concentric learned of the intolerable work environment and asked to speak to eBay management about the problem, Baugh immediately terminated the Concentric contract and all of the analysts, including Veronica, were then employed through Progressive F.O.R.C.E. Concepts, a company owned and operated by a close friend of Baugh’s. The

atmosphere within the GIC became cult-like with Jim Baugh as the cult leader. (The letter from Anneli Olausson is attached as Exhibit A to the Declaration of Frank R. Ubhaus submitted herewith). Paul Florence, the chief executive officer of Concentric Advisors, the staffing agency terminated by Jim Baugh, said: “It felt like eBay was breaking the analysts down psychologically – making them doubt themselves, isolating them, turning them against each other.” In 18 months, eBay fired at least a dozen analysts. As Anneli Olausson said, when Mr. Florence protested the treatment of the contract analysts, his firm was fired too. “I was relieved,” he said. “It seemed like a cult.” Inside eBay’s Cockroach Cult: The Ghastly Story of a Stalking Scandal. *New York Times*, September 26, 2020.

For Veronica Zea, as this was her first real job, she had little context for what to expect in the real-world working environment and was psychologically ill-equipped to deal with the demands placed on her by Baugh and his leadership team. As far as she knew, this was the way security was handled in all the big technology companies in Silicon Valley. To understand how Veronica could allow herself to be involved, even to a limited degree, in Baugh’s scheme with respect to the eCommerceBytes newsletter and the Victims, it is necessary to understand who Veronica is and, most importantly, who she was as a young woman just out of college starting her first job. The best way to understand Veronica Zea is through the words of those who know her best: her family and friends. Those words are contained in the letters of support submitted herewith. Hopefully, those words will help the Court understand the vulnerable and trusting young woman who started her work-life full of optimism for a fulfilling future in law enforcement, only to have that optimism crushed by a gigantic corporation that put profits above people and allowed a psychopath like Jim Baugh to have control over the lives of vulnerable young women.

B. Veronica Zea

Although each of the letters of support for Veronica attached to this Memorandum contain the writer's own individual perspective, they each portray a young woman who is loving, caring, compassionate, trusting and, at the same time, easily manipulated by people in authority.¹

For example, as Veronica's cousin, Chelsea Armann, writes: "Ronnie has always been someone who wants to help and make others happy. Since she was a child, she spent time volunteering and helping others through her Girl Scout troop...and with Sunday Friends, a nonprofit that works to break the cycle of poverty. In high school she worked with several volunteer groups, like Tino Cancer Club." "Ronnie is kind, intelligent, trusting, funny, caring, loyal, dependable..." (Chelsea Armann's letter is attached hereto as Exhibit B).

Ronnie's sister, Rylie, describes Ronnie as "...a very caring individual, and often spends more time worrying about others than herself...In high school she was part of the Leo club which focused on community service. She always loved helping people through this club...one of her favorite parts of school. She has volunteered for the local Fish Derby a number of times, helping individuals with disabilities learn how to fish...For many years she participated in Toys for Tots, carefully picking out and buying toys for underprivileged children. Even when she is struggling to make ends meet she always prioritizes making donations to various organizations. Her day-to-day life is filled with good deeds and small actions that help others." (Rylie Zea's letter is attached hereto as Exhibit C).

Annelise Boyle, one of the sisters of Ronnie's longtime boyfriend, Michael Boyle, describes Veronica as a "...devoted student who prioritized her education and worked hard during her time at Cupertino High School, as well as during college at American

¹ The home addresses of the writers have been redacted for privacy considerations. The letters with the addresses are available for review by the court and counsel for the government.

University...While in high school, Veronica was a snack shack volunteer at ...sporting events...Additionally, Veronica was a member of the Leo Club and Tino Cancer Society. Furthermore, she was a frequent volunteer with Operation Care and Comfort and Sunday Friends. With Operation Care and Comfort, she worked to help send care packages to soldiers, and with Sunday Friends she assisted in providing aid to homeless children and single mothers in our community...She cares deeply for not only the people she is closest to in her life, but for the greater community, and strives to do her part to improve the lives of those around her and show compassion to those experiencing life's greatest difficulties." (Annelise Boyle's letter is attached hereto as Exhibit D).

Another of Michael Boyle's sisters, Anastasia Boyle, describes Veronica as a "...loyal, kind, empathetic, honest and caring young woman...Veronica was happy to provide a shoulder to lean on and a compassionate confidant when members of my family were struggling with mental illness issues." Anastasia also describes how the circumstances of the instant case have "shaken Veronica to the core...as she's grieved that her actions, however misled and believed innocuous, hurt the Steiners...Given Veronica's kindhearted and sympathetic nature and struggles with her own mental health issues, I believe the last thing she would've wanted to do would be to hurt someone in any way, physically, psychologically, or emotionally." (Anastasia Boyle's letter is attached hereto as Exhibit E).

Michael Boyle's mother, Nancy Boyle, likewise describes Veronica as a "kind, loyal and honest young woman...Her empathy to those in need is evident, as she has donated to and done service for NAMI (National Association for Mental Illness). She has experienced some anxiety in her own life and can empathize with the mental struggles of others. When one of my older

daughters had difficulties with depression for prolonged periods, Veronica was able to talk to her and be present for her.” (Nancy Boyle’s letter is attached hereto as Exhibit F).

Perhaps one of the most insightful letters written on Veronica’s behalf is the one from her aunt, Mary Zea Cefalu. In that letter, Ms. Cefalu describes Veronica’s parents as somewhat overprotective and that, while they provided Veronica and her sister with a loving and secure upbringing, Veronica went into the working world naïve and inexperienced. After Veronica was fired from eBay, the family learned “...just how much stress and harassment she endured while on the job. Traumatic stress for which she continues to be treated...Ronnie has suffered from anxiety and ADHD since a young age...Ronnie and I both are empaths; we want to help others...We take on undue stress, to relieve others from suffering the same. When it comes to on-the-job performance, we are loyal to superiors and follow directions without question. We were brought up to respect authority. Ronnie has been deeply affected by the incident she was involved in while at eBay...She is currently being treated by a psychiatrist for the anxiety and PTSD she experienced during the Boston incident...Ronnie told me that she will never forgive herself for the pain she caused others. She is remorseful for her actions. I know her well enough to see the physical and psychological effect this episode has had on her, and I fear for her welfare.” (Mary Zea Cefalu’s letter is attached hereto as Exhibit G).

The letter from Veronica’s cousin, Lindsey Jacobs, describes in painful detail not only the issues Veronica has struggled with her entire life but also the impact the present situation has had on her. As Ms. Jacobs writes: “Ronnie is kind and easygoing, she is lighthearted and possesses a lovely sense of humor, she is anxious yet well-mannered and always pure of heart...Ronnie has battled anxiety for the majority of her life. She was diagnosed with anxiety at age four and later with ADHD. She strives to keep people around her happy, even at the expense

of her own well-being. She is gentle, cheerful, and graceful in her conversations with all people. She is hands-down the most beloved person in our huge family because of her humble nature and kindheartedness toward all...Ronnie is not self-confident and has always struggled with standing up for herself. She grew up in a loving but very strict household and is long-accustomed to adhering to direction in order to please others...Ronnie openly talks about her errors. She knows what she did was wrong and feels like she has absolutely failed. Her primary regret is that she did something that so devastatingly hurt other people. She feels horribly for the victims. She experiences constant worry at the aftermath of fear they must still experience to this day. The worst part of her remorse has manifest in undeniably physical symptoms. On top of anxiety and ADHD, she has now been diagnosed with Major Depressive Disorder and PTSD. In fact, due to Ronnie's Major Depression, she had to terminate her lease and move in with her parents, as it is unsafe for her to be alone...Her body is covered in small scars from head to toe due to nervous skin picking...For years, Ronnie looked forward to a career in criminology. She hoped her job in security at eBay would lead to an impactful career in the worlds of criminal and social justice...I personally am saddened by seeing the bright light of her future suddenly end...As an outsider, I can see how the circumstances at eBay led my impressionable, people-pleasing cousin to blindly follow her boss's orders. But Ronnie doesn't see the facts that way: she assumes complete responsibility and will surely feel sorry for what she did every single day for the rest of her life." (Lindsey Jacobs letter is attached hereto as Exhibit H).

Veronica's long-time boyfriend, Michael Boyle, in his letter to the Court, provides examples of Veronica's caring for others and the profound impact it has had on him and his family, including her help and support to a member of Michael's family who experienced a crippling mental health crisis. Michael describes how Veronica provided help and support as one

who had experienced her own mental health challenges. Michael's letter also provides an insight into the bizarre work environment at eBay and the cult-like atmosphere created by Jim Baugh and the stress it placed on Veronica. He also painfully describes the toll this entire matter has taken on Veronica, including, as he puts it, "In addition to the pain that Veronica is going through, she also holds an immense remorse for her role towards the victims and the anguish it has caused them...she is devastated in the events that took place and distressed that she was involved." (Michael Boyle's letter is attached hereto as Exhibit I).

In her letters (one written shortly after Veronica entered her plea in this case and one more recently), Veronica's mother, Kim Zea, not only details the struggles that Veronica has experienced in her life with anxiety, the lack of self-confidence and depression and the resultant psychiatric care she has received, but also Veronica's experience with her job at eBay under the control and direction of Jim Baugh. Kim relates how Veronica talked to her on the telephone while Veronica was in Boston pursuant to Baugh's plan with respect to eCommerceBytes, and how Veronica, in tears, told Kim that she just wanted to quit eBay and come home. Kim also describes the psychiatric treatment Veronica has received since she was a young girl and has continued to receive, and also the fact that Veronica has recently been diagnosed on the autism spectrum, which explains Veronica's defense mechanisms of avoidance and procrastination. (Kim Zea's letters are attached hereto marked Exhibit J).

Veronica's father, Ron Zea, in his letter, relates the bizarre working environment that Veronica found herself in at eBay under the direction of Jim Baugh but that Veronica saw as part of the job and that she did her best to be an effective and valuable part of the "team." (Ron Zea's letter is attached hereto as Exhibit K).

As the Court will note in reading the letters of support, a recurring theme is that Veronica Zea is a person who wants to please others, recognizes authority and follows directions. As her aunt, Catherine Walsh, writes: Veronica has "...grown from a small wonderful child to the beautiful young woman she is today. She has always had a big heart and never wanted to disappoint anyone...Veronica is a victim of being a people pleaser and only followed directions from those she thought she could trust." (Catherine Walsh's letter is attached hereto as Exhibit L). It was those very positive characteristics that caused Veronica to follow the directions she received from senior management at eBay in the effort to neutralize eCommerceBytes. As Veronica's cousin, Colby Aymar, says: "Ronnie has always been a patient, gentle, and trusting person, with the last point being how she found herself in her current situation. I cannot imagine how she must have felt in her first corporate job, being told to do things she felt uncomfortable with, but trusting her senior leaders to make decisions in her best interest. As it turns out, they were using her, and taking advantage of her trusting nature." (Colby Aymar's letter is attached hereto as Exhibit M)

As noted in many of the support letters attached to this Memorandum, Veronica has, for much of her life, dealt with anxiety and depression. Those conditions led Veronica and her family to seek psychiatric help for her which led them, ultimately, to Dr. Sharadha Raghavan, a Board-Certified psychiatrist. In 2011, at age thirteen, Veronica was diagnosed with Anxiety Disorder, Major Depression and Attention Deficit Disorder (see Dr. Raghavan's letter of May 21, 2014 is attached to the Declaration of Frank R. Ubhaus as Exhibit B). Dr. Raghavan has continued to treat Veronica to the present. As Dr. Raghavan states, in her letter to this Court, although Veronica suffers with anxiety and depression, she is a very caring, shy and unassuming

person and that it is not in her nature to intentionally hurt any being. (Dr. Raghavan's letter to this Court is attached to the Declaration of Frank R. Ubhaus as Exhibit C).

In December 2021, in an effort to learn more about the reasons for her involvement in the events at eBay and with eCommerceBytes and the Victims, Veronica sought out testing to explore whether she met the clinical criteria for autism spectrum disorder; specifically, she knew that her activities under Jim Baugh's direction were out of character for her and wanted clarity around potential reasons for her actions. The results of those tests disclosed that, indeed, Veronica is on the spectrum. Among the many findings in the test results, the one most relevant to the present case and one that explains Veronica's inability to say no to a boss like Jim Baugh, is that Veronica's social motivation was significantly impaired and that she has been plagued by fears of offending or disappointing others to the extent that she likely became overwhelmed, and that she was driven by a strong desire to fit in socially. (A sealed copy of the Confidential Psychological Report prepared by the Uplift Psychology Group is attached to the Declaration of Frank R. Ubhaus as Exhibit D).

C. Acceptance of Responsibility

Virtually from the first moment of contact with the government agents investigating this matter, Veronica Zea has sought to be as cooperative as possible with the Government. At all times she attempted to be as fully forthcoming with the investigating agents and the Assistant United States Attorneys involved in the investigation as she could. Accordingly, the Government has entered into a Cooperation Agreement with Veronica which, hopefully, will lead to a Government motion pursuant to USSG Section 5K1.1 for a sentence below the advisory Guidelines sentencing range. It is submitted that the Government has successfully obtained guilty pleas from Jim Baugh, David Harville and others based in part on information provided

by Veronica and on the Government's ability, if necessary, to call Veronica Zea as a witness in their prosecution.

Evidence of Veronica's complete acceptance of responsibility is found throughout the letters of support submitted on her behalf to this Court. Not only do those letters describe Veronica's acceptance of responsibility for her part in Jim Baugh's campaign, but they also reflect the level of deep anguish and remorse she feels, not for herself, but rather for all the people she believes she has hurt or have been hurt by her actions, not the least of which are the Victims.

Not only has Veronica accepted full responsibility for her actions in her interactions with the Government agents, but she has all accepted full responsibility with the Victims. Without any pre-conditions, Veronica has participated in Zoom conferences with the Victims' attorney and, in an effort to provide assistance to the Victims, she has provided full and truthful responses to all of the attorney's questions and requests for information.

D. Offense Conduct

Jim Baugh is a reprehensible human being and should never have been in a position of authority over anyone much less a young woman like Veronica Zea. Jim Baugh was an actual psychopathic monster who manipulated and abused Veronica and made her employment at eBay a horror.²

As noted in many of the letters of support, Veronica did not have enough self-confidence to say no as she became more and more uncomfortable with the things Baugh and other eBay

² As co-conspirator Phil Cooke stated during his sentencing: "I look at these young people (Stockwell and Zea) differently. They're young, wonderful women who trusted the adults in their lives. We had an obligation to safeguard them. And my failure to act appropriately on August 6 let them down immensely. For that I'm very sorry." *United states v Cooke*, No. 20-CR-10126-ABD (July 27, 2021, sentencing transcript).

employees were doing to shut down eCommerceBytes. Jim Baugh operated the GIC as a cult with himself as the cult master and had conditioned Veronica to follow orders.

As described in both the Government's Offense Conduct Statement and in the Presentence Investigation Report, Veronica Zea's involvement with the Baugh plan and scheme was consisted of the following:

1. At Baugh's direction she purchased debit cards with the understanding that they would be used to "spam" the eCommerceBytes' owners with various items. The list of suggested "gift" items was put together by others while Veronica was out of the office.
2. At Baugh's direction she ordered cockroaches on-line to be delivered to the Victims' home. Veronica was aware that other items were ordered at Baugh's direction by the other analysts; e.g. one came up with the idea of sending porn magazines and another ordered the pornographic magazines; another ordered the pig mask; one came up with the idea of sending a grief book which another ordered; another analyst ordered the pig fetus; Baugh came up with the idea for a funeral wreath which another analyst ordered.
3. At Baugh's direction, Veronica accompanied Baugh and Harville to Boston and rented cars for their use and arranged hotel rooms and was aware that Baugh and Harville were going to attempt to attach a tracking device to the Victim's vehicle. It is believed that Baugh brought Veronica to Boston to be able to use the credit card issued to her by her actual employer, Progressive F.O.R.C.E. Concepts, for the purpose of renting cars and hotel rooms. Baugh routinely directed Veronica to use her

PFC credit card for things he apparently did not want to appear on his own expense reports. There was simply no other reason for Veronica to be there.

4. At Baugh's direction, Veronica drove Baugh and Harville to the Victims' neighborhood and was present during some of the activities that Baugh and Harville engaged in, including their unsuccessful effort to place a tracking device on the Victims' automobile and subsequent efforts by Baugh and Harville to follow the Victims.
5. When contacted by the Natick police, rather than talk to the officer, Veronica informed Baugh of the contact and he then directed her to leave the hotel. When the police reached her by telephone, Baugh grabbed the telephone and informed the police that he was her husband and to leave her alone. Baugh then sent Veronica back to California.
6. At Baugh's direction Veronica participated in providing eBay and eBay's counsel with a false narrative, developed by Baugh and others, regarding the events in Natick. While participating in a telephone interview with eBay's counsel in which she provided false information regarding the events in Natick, Veronica was accompanied by Stephanie Popp who was there at Baugh's direction to ensure that Veronica stuck to the false narrative.

Baugh, like any good masterminds of a conspiracy, kept many of the eBay employees involved in his scheme ignorant of its full scope and of the activities of others; for example, Veronica Zea was unaware of the nature and extent of the twitter messages being delivered to the Victims by Stephanie Popp. She was horrified and sickened when she was shown those messages during the progression of the criminal case.

THE GUIDELINES AND THE PRESENTENCE REPORT

The Presentence Investigation Report for Veronica Zea prepared by the United States Probation Office arrived at a total offense level of 19 and a Criminal History Category of 1. The guideline sentencing range at level 19 is 30 to 37 months. Part of the guideline calculation relates to a two-level enhancement for a pattern of activity under USSG Section 2 A6.2(b)(1) and a two-level upward adjustment under USSG Section 3D1.4 because the two victims are treated as separate units. Veronica Zea believes that the application of these two guideline provisions results in a disproportionately high guideline range in her case.³ However, as noted above, it is anticipated that the Government will make a motion under Rule 5K of the Guidelines for a downward departure in Veronica Zea's case and will recommend a sentence of probation with conditions. Accordingly, since both parties are each recommending the imposition of a sentence of probation, resolution of concerns regarding the applicability of those two provisions, as a practical matter, is unnecessary. Section 5K2.20: Aberrant Behavior

Although, given the recommendations of both parties for a probationary sentence in Veronica's Zea's case, it may be unnecessary for the Court to consider further adjustments, it should be noted that the Guidelines, pursuant to Section 5K2.20 also provide the Court with the authority to depart from a suggested guideline range if the offense represents an event of aberrant behavior inconsistent with the defendant's history. According to the Application Note, the Court is to consider (a) the defendant's mental condition, (b) the defendant's employment record, (c) the defendant's record of prior good works, (d) the defendant's motivation for committing the offense, and (e) the defendant's efforts to mitigate the effects of the offense. It is submitted that

³ See for example, the discussion of a pattern of activity in *United States v Lee*, 790 F3d 12, 19 (1st Cir. 2015) and in *United States v Sayer*, 748 F3d 425, 431 (1st Cir. 2014), and the discussion of the use of an upward adjustment for multiple victims in *United States v Hernandez Coplin*, 24 F319 n.7 (1st Cir. 1994).

consideration of each of these factors militates in support of a variance from the suggested guideline range in Veronica Zea's case. As set forth in great detail in the letters of support submitted on Veronica's behalf, (a) she does suffer from a mental condition that made her far more susceptible to Jim Baugh's direction in the conduct underlying the offenses, (b) this was her first employment and first real-world experience beyond college, (c) the letters of support set forth in detail Veronica's history of selfless good works in her community (see for example the letter of Sylvia Robbins in which she refers to not only the good works that Veronica has done for the environment and her community, but also the compassion and empathy she has shown working with the elderly). (Sylvia Robbins letter is attached hereto as Exhibit Q), (d) Veronica's only motive in connection with Baugh's plan was to follow the dictates of her superiors, and (e) Veronica accepted responsibility for her role in these offenses and cooperated with the Government from the outset of the agents contact with her; moreover, Veronica has cooperated with counsel for the victims on an unconditional basis providing interviews in which she has provided detailed responses to counsel's questions regarding all aspects of the Baugh plan and eBay's participation. (That cooperation is set forth in the Declaration of Frank R. Ubhaus submitted herewith).

Given what we know of Veronica Zea, her character and her background, the only logical and reasonable conclusion one can draw from her participation in this affair is that, for her at least, it was a matter of aberrant behavior and one that should be considered by the Court as justifying a downward variance from the suggested guideline range.

A. A Downward Variance is Warranted Under Title 18 U.S.C. Section 3553(a) Factors

Under the provisions of Section 3553(a) of Title 18, the Court is empowered to depart downward from a recommended Guideline calculation after taking into consideration, among

other things, (1) the nature and circumstances of the offense and the history and characteristics of the defendant, (2) the need for the sentence to (A) reflect the seriousness of the offense, promote respect for the law and to provide just punishment, (B) afford adequate deterrence, (C) protect the public, and (D) to provide needed educational or vocational training. As the court stated in *United States v Rodriquez*, 527 F.3d 221, 228 (1st Cir. 2008) citing *United States v Kimbrough*, 552 U.S. 85, 109 (2007), the Supreme Court requires a “more holistic inquiry” in applying the Section 3553(a) factors and that “Section 3553(a) is more than a laundry list of discrete sentencing factors; it is rather, a tapestry of factors, through which runs the thread of an overarching principal.” That overarching principal is to “impose a sentence sufficient but not greater than necessary.” Under Section 3553(a) the court is to consider all relevant factors and “construct a sentence that is *minimally* sufficient to achieve the broad goals of sentencing.” *Rodriquez*, *supra* at 228.

Here the nature and circumstances of the offense are well described in the Government’s Offense Conduct Statement and in the Presentence Investigation Report. What that Statement and that Report make clear is that Veronica Zea was the least senior of any of the people prosecuted in this matter and the only one with no managerial authority whatsoever, she was simply a contract employee. Veronica Zea was little more than a functionary carrying out the express directives of her superiors with the understanding that the directive to take down eCommerceBytes came directly from the Chief Executive Officer of eBay because that newsletter somehow posed a threat to eBay, its shareholders and its customers.

The history and characteristics of Veronica Zea are well described in the letters of support submitted on her behalf. Those letters describe a warm, caring and trusting young woman. Veronica was delighted to have embarked on what she believed would be a dream job

which would lead to a career in law enforcement, perhaps even the Federal Bureau of Investigation, instead she ended up in a snake pit run by a psychopath. As her friends and family make clear, Veronica Zea would never intentionally cause harm to another person, yet that is precisely what her superiors at eBay led her to do and for which she will be forever remorseful.

As for the remaining 3553(a) factors, it is respectfully submitted that there is no need for any sentence in this matter beyond a period of probation. Veronica has already been severely punished for her participation in Jim Baugh's scheme – she will bear the stain of two felony convictions for the rest of her life, she has been financially devastated, she has lost any chance of a future in law enforcement, she has been emotionally and psychologically traumatized not only by the fact of the prosecution but more so by the fact that she allowed herself to become part of a plan of action that harmed two other people. As set forth in a number of the letters written by those who know Veronica best, as well as in Veronica's own letter, it is the fact that other people were harmed by her participation in these events that haunts her and for which she experiences such pain.

CONCLUSION

Shortly after eBay's effort to shut down eCommerceBytes became known, Devon Wenig, the CEO who started it all with his command to shut the newsletter down, left eBay with a \$57 million severance package. Steve Wymer, the Chief Communications Officer, who said with respect to eCommerceBytes: "I want to see ashes. As long as it takes. Whatever it takes", left eBay to become the chief executive of the Boys and Girls Clubs of Silicon Valley. Veronica Zea was fired. Although she subsequently obtained employment at Facebook, that employment was terminated when the criminal proceedings were made public. She remained unemployed for the next nine months and is now employed through a friend of her mother's doing clerical work at

\$25/hour, living at home with her parents and suffering with post-traumatic stress disorder among other emotional problems. She has been punished enough. As Veronica's lifelong friend, Dr. Kira Feldman says in her letter to this Court (see Exhibit Z): Veronica Zea is a balance of empathy and morality and the world is a better place because Veronica Zea is in it.

It is respectfully submitted that, based on the foregoing, an appropriate sentence for Veronica Zea, a sentence that is no greater than necessary, in this matter is a period of probation with a condition of some amount of community service and a \$200 penalty assessment

Respectfully submitted,

FRANK R. UBHAUS,

/s/ Frank R. Ubhaus

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Certificate of Service

I hereby certify that on this 21st day of October, 2022, this document was filed through the Court's ECF system and will therefore be sent electronically to the registered participants identified in the Notice of Electronic Filing.

/s/ Frank R. Ubhaus

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